

06-05-06

#RCE

PTO/SB/30 (09-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: MS Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	09/758,632
	<b>Filing Date</b>	January 10, 2001
	<b>First Named Inventor</b>	Yoshiki NISHITANI
	<b>Art Unit</b>	2837
	<b>Examiner Name</b>	M. Fletcher
	<b>Attorney Docket No.</b>	393032022200

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☐ Amendment/Reply

iii. ☒ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☒ Other Petition to Withdraw from Issuance

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 03-1952

i. ☒ RCE fee required under 37 CFR 1.17(e) 06/06/2006 CCHAU1 00000012 031952 09758632

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 01 FC:1801 790.00 DA

iii. ☒ Other Petition Fee (to withdraw from issue)

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Name (Print/Type)	Mehran Arjomand	Registration No. (Attorney/Agent)	48,231
Signature		Date	June 1, 2006

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV701015082US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, and by facsimile to (571) 273-8300 on the date shown below.

Dated: June 1, 2006 Signature: (Marco Jimenez)

Adjustment date: 07/10/2006 CKHLOK  
06/06/2006 CCHAU1 00000012-031952 09758632  
01 FC:1801 790.00 CR



<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618).</b> <b>FEE TRANSMITTAL</b> <b>For FY 2006</b>		<b>Complete if Known</b>	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/758,632
TOTAL AMOUNT OF PAYMENT (\$)		Filing Date	January 10, 2001
790.00		First Named Inventor	Yoshiki NISHITANI
		Examiner Name	M. T. Fletcher
		Art Unit	2837
		Attorney Docket No.	393032022200

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
-	x	=	0	Fee (\$)
				Fee Paid (\$)
				0

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
-	x	=	0

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/50	(round up to a whole number) x	=	0

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1801 Request for continued examination (RCE) (see 37 ... 790.00

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	48,231
Name (Print/Type)	Mehran Arjomand	Telephone	(213) 892-5630
		Date	June 1, 2006

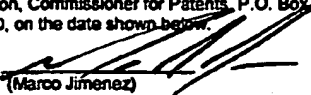
Express Mail Label No. EV701015062US  
(also sent via facsimile)

la-858308

06-05-06

DAC  
ZFW

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Dated: June 1, 2006 Signature: 

(Marco Jimenez)

Sent By Facsimile (571-273-8300)  
and Express Mail  
Docket No.: 393032022200

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Yoshiki NISHITANI et al.

Serial No.: 09/758,632

Filing Date: January 10, 2001

For: APPARATUS AND METHOD FOR  
DETECTING PERFORMER'S MOTION  
TO INTERACTIVELY CONTROL  
PERFORMANCE OF MUSIC OR THE  
LIKE

Examiner: M. Fletcher

Group Art Unit: 2837

**PETITION TO WITHDRAW APPLICATION FROM  
ISSUE PURSUANT TO 37 CFR 1.313 (c)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants filed a petition to withdraw the present application from issuance on April 13, 2006. In a decision dated May 4, 2006, the petition was dismissed because the application was held to be abandoned for failure to take appropriate action in response to Notice of Allowance mailed on October 19, 2005. A notice of abandonment was mailed on April 6, 2006.

Applicants respectfully submit that they responded in a timely manner to the Notice of Allowance and that, in fact, the application is not abandoned. To that end, Applicants are filing

LA-861423

06/06/2006 CCHU1 00000012 031952 09758632  
02 FC:1464 130.00 DA  
Adjustment date: 07/10/2006 CCHU1 00000012 031952 09758632  
06/06/2006 CCHU1 00000012 031952 09758632  
02 FC:1464 130.00 CR

herewith a petition to withdraw the holding of abandonment pursuant to 37 C.F.R. §§ 1.181 and 1.8(b).

In the event that the petition is granted and the holding of abandonment is withdrawn, Applicants hereby renew their petition to the Commissioner to withdraw the present application from issue. Three office actions citing references were mailed in connection with related Japanese applications. Accordingly, Applicants request withdrawal from issue to file an Information Disclosure Statement (IDS) pursuant to 37 C.F.R. § 1.97 and § 1.98 with a Request for Continued Examination (RCE). The IDS and RCE are enclosed with this petition.

Please charge our Deposit Account No. 03-1952 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.17(h) or (i). Fee transmittal form PTO/SB/17 is enclosed is duplicate.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Director to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 393032022200.

Dated: June 1, 2006

Respectfully submitted,

By Mehran Arjomand  
Mehran Arjomand  
Registration No.: 48,231  
MORRISON & FOERSTER LLP  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013  
(213) 892-5630

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND												
1 Date of Request: <u>07/07/06</u>		2 Serial/Patent # <u>09/758632</u>										
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT								
X	Filing RCE			\$ 790.00								
	Amendment			\$								
	Extension of Time			\$								
	Notice of Appeal/Appeal			\$								
X	Petition			\$ 130.00								
	Issue			\$								
	Cert of Correction/Terminal Disc.			\$								
	Maintenance			\$								
	Assignment			\$								
	Other			\$								
			7 TOTAL AMOUNT OF REFUND		\$ 920.00							
			8 TO BE REFUNDED BY:									
			Treasury Check									
			Credit Deposit A/C #:									
			9 <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 20px;">0</td> <td style="width: 20px;">3</td> <td style="width: 20px;">--</td> <td style="width: 20px;">1</td> <td style="width: 20px;">9</td> <td style="width: 20px;">5</td> <td style="width: 20px;">2</td> </tr> </table>			0	3	--	1	9	5	2
0	3	--	1	9	5	2						
10 REASON:												
	Overpayment											
X	Duplicate Payment											
	No Fee Due (Explanation):											
11 REFUND REQUESTED BY:												
TYPED/PRINTED NAME: <u>Frances Hicks</u>		TITLE: <u>Petitions Examiner</u>										
SIGNATURE: _____		PHONE: <u>Ext. 23218</u>										
OFFICE: <u>Office of Petitions</u>												
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****												
APPROVED: <u><i>CKH</i></u>			DATE: <u>7/10/06</u>									

*Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:*

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSU EE  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or **Fax** (571) 273-2885

**INSTRUCTIONS:** This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as dictated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

25224 7590 10/19/2005  
**MORRISON & FOERSTER, LLP**  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024



**Certificate of Mailing or Transmission**  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail-Stop ISSU FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

**Beverly S. Carter** (Depositor's name)  
*Beverly S. Carter* (Signature)  
October 28, 2005 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,632	01/10/2001	Yoshiki Nishitani	39303.20222.00	9558

**TITLE OF INVENTION:** APPARATUS AND METHOD FOR DETECTING PERFORMER'S MOTION TO INTERACTIVELY CONTROL PERFORMANCE OF MUSIC R THE LIKE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$0	\$0	\$0	01/19/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
FLETCHER, MARLON T	2837	084-615000

Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 **MORRISON & FOERSTER LLP**

2 \_\_\_\_\_

3 \_\_\_\_\_

**ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT** (print or type)

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Yamaha Corporation

Hamamatsu-shi, JAPAN

Check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

1. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☒ Advance Order - # of Copies 10

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 03-1952 (enclose an extra copy of this form).

Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

*David L. Fehrman*

Date October 28, 2005

Typed or printed name David L. Fehrman

Registration No. 28,600

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Complete and send this form, together with applicable fee(s), to: Mail

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
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CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

25224 7590 10/28/2004

MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024



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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

Enrique Moreno	(Depositor's name)
<i>Enrique Moreno</i>	(Signature)
January 27, 2005	(Date)

Adjustment date: 02/02/2005 LWONDM2  
26/2004 HBERHE 00000222 031952 09758632  
FC:1501 1330.00 CR

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,632	01/10/2001	Yoshiki Nishitani	39303.20222.00	9558

TITLE OF INVENTION: APPARATUS AND METHOD FOR DETECTING PERFORMER'S MOTION TO INTERACTIVELY CONTROL PERFORMANCE OF MU OR THE LIKE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$70	\$0	\$70	01/28/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
FLETCHER, MARLON T	2837	084-615000

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2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. Morrison & Foerster, LLP

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type):

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.14. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

YAMAHA CORPORATION

(B) RESIDENCE (CITY and STATE OR COUNTRY)

Hamamatsu-shi, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

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- ☒ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☒ Advance Order - # of Copies 10

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- ☐ Payment by credit card. Form PTO-2038 is attached.
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Authorized Signature

*David L. Fehrmann*

Date January 27, 2005

Typed or printed name

David L. Fehrmann

Registration No. 28,600

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01 FC:1501 1400.00 CR

